

PLCMATRCA (SEQ ID NO: 333); RDCSHRSCE (SEQ ID NO:334);
NPCLRAACI (SEQ ID NO: 335); PTCAYGWCA (SEQ ID NO: 336);
LECVANLCT (SEQ ID NO: 337); RKCGEVCT (SEQ ID NO: 338);
EPCTWNACL (SEQ ID NO: 339); and QQCQDPYCL (SEQ ID NO:344).

Election of Invention

Applicants hereby elect with traverse the peptide species PTCAYGWCA (SEQ ID NO: 336) for prosecution in the above-identified application.

Traversal

Applicants respectfully traverse the restriction of the peptide species of SEQ ID NO: 336 from peptides WSCARPLCG (SEQ ID NO: 320) and SECAYRACS (SEQ ID NO: 319). In this regard, Applicants respectfully point out that two separate requirements must be met in order for restriction to be proper. First, the restricted inventions must be independent or distinct. Secondly, there must be a serious burden on the Examiner if restriction is required. See, for example, MPEP 803 (Restriction- When Proper), which states, in part:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Page 800-3; emphasis added.

Thus, it is not sufficient for an Examiner to assert that patentably distinct inventions are present in order to issue a Restriction Requirement or require an election of species. There also must be a serious burden on the Examiner to search and examine the entire application.

In the present case, peptides SEQ ID NOS: 336, 320 and 319, while patentably distinct, represent a small number of peptide species which are all lymph node homing peptides. Applicants submit that the Examiner would not be seriously burdened to search and examine three distinct peptide species. The Examiner is therefore respectfully requested to reconsider and rejoin the peptide species of SEQ ID NOS: 336, 320 and 319.

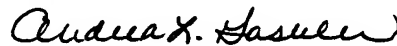
Applicants further respectfully traverse restriction of peptide species SEQ ID NO: 336 from the other species of lymph node homing peptide, specifically, peptides SEQ ID NOS: 315, 317, 319, 320, 329, 331, 333, 334, 335, 337, 338, 339 and 344. Again, while these peptide species are patentably distinct, it would not require a "serious burden" on the Examiner to search and examine this relatively small number of peptide species. Because there would not be a "serious burden" on the Examiner to search and examine the peptide species of claims 78 to 83 together, Applicants submit that restriction of these peptide species is not proper. The Examiner therefore is respectfully requested to reconsider and rejoin the fourteen peptide species of claims 78 to 83.

CONCLUSION

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account. Should the Examiner have any questions, he is invited to call the undersigned agent or Cathryn Campbell.

Respectfully submitted,

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